

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-001-02-1-5-00848
Petitioner: George A. Wilkes Jr.
Respondent: Department of Local Government Finance
Parcel #: 001254600110037
Assessment Year: 2002

The Indiana Board of Tax Review (the "Board") issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. The informal hearing as described in Ind. Code § 6-1.1-4-33 was held. The Department of Local Government Finance (the "DLGF") determined that the Petitioner's property tax assessment for the subject property is \$26,400 and notified the Petitioner on March 31, 2004.
2. The Petitioner filed a Form 139L on April 30, 2004.
3. The Board issued a notice of hearing to the parties dated October 7, 2004.
4. Special Master Kathy J. Clark held the hearing in Crown Point on November 10, 2004.

Facts

5. The subject property is located at 4143 Fillmore Street, Gary. This location is in Calumet Township.
6. The subject property consists of a one-story frame, single-family dwelling.
7. The Special Master did not conduct an on-site visit of the property
8. Assessed value of subject property as determined by the DLGF:
Land \$3,500 Improvements \$22,900 Total \$26,400.
9. Petitioner requested a total assessed value of \$15,000.

10. Persons sworn as witnesses at hearing:
For Petitioner — George A. Wilkes, Jr., Owner,
For Respondent — Diane Spenos, Assessor/Auditor.

Issues

11. Summary of Petitioner's contentions in support of an error in the assessment:
- a) As stated on the Notice of Assessment of Land and Structures – Form 11 – Lake County “the system (of property assessment) needed to be based on real world values. Assessments must now be related to the 1999 market value...” *Petitioner Exhibit 3; Wilkes testimony.*
 - b) Approximately thirty individually owned parcels of real estate exist in the 4100 block of Fillmore Street with more than 50 percent either vacant or occupied by tenants. This is an example of the decline in the neighborhood considered the 4100 block of Fillmore. The current assessment does not adequately address this decline. *Petitioner Exhibit 3; Wilkes testimony.*
 - c) An appraisal was completed by George A. Wilkes, Jr. (Petitioner), Indiana Certified Residential Appraiser (CR69201438) on October 27, 2004, for the purposes of this appeal. It establishes the value as of October 1999 to be \$15,000. *Petitioner Exhibit 4; G. Wilkes testimony.*
13. The Respondent offered no rebuttal of the Petitioner's contentions.

Record

14. The official record for this matter is made up of the following:
- a) The Petition,
 - b) The tape recording of the hearing labeled Lake County 625,
 - c) Exhibits:
 - Petitioner Exhibit 1: Form 139L Petition,
 - Petitioner Exhibit 2: Summary of Petitioner's arguments,
 - Petitioner Exhibit 3: Outline of evidence explaining its relevance,
 - Petitioner Exhibit 4: Appraisal prepared by George Wilkes, Jr.,
 - Respondent Exhibit 1: Form 139L petition,
 - Respondent Exhibit 2: Subject property record card,
 - Respondent Exhibit 3: Subject photograph,
 - Board Exhibit A: Form 139L,
 - Board Exhibit B: Notice of Hearing,
 - Board Exhibit C: Sign in Sheet,

d) These Findings and Conclusions.

Analysis

15. The most applicable governing cases and regulations are:
- a) A Petitioner seeking review of a determination of an assessing official has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also*, *Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
 - b) In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer's duty to walk the Indiana Board . . . through every element of the analysis”).
 - c) Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner’s evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner’s evidence. *Id.*; *Meridian Towers*, 805 N.E.2d at 479.
16. The Petitioner made a prima facie case. This conclusion was arrived at because:
- a) The Petitioner submitted an appraisal as of October 1999 estimating the value of the subject property at \$15,000. The appraisal was prepared by a licensed, certified appraiser. As such, the appraisal serves to establish a prima facie case establishing that the current value of \$26,400 is incorrect and that \$15,000 is the correct value.
 - b) As a result, the burden shifted to the Respondent to offer evidence to rebut or impeach the appraisal. The Respondent failed to do so. *American United v. Maley*, 803 N.E.2d 276; *Meridian Towers*, 805 N.E.2d at 479.

Conclusion

17. The Petitioner presented sufficient evidence to establish a prima facie case. The Respondent failed to rebut the Petitioner’s evidence. The Board finds in favor of the Petitioner.

Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed to a total of \$15,000.

ISSUED: _____

Commissioner,
Indiana Board of Tax Review

IMPORTANT NOTICE

- APPEAL RIGHTS -

You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice.